

U.S. Customs Service

Treasury Decision

19 CFR Part 12

(T.D. 02-55)

RIN 1515-AD16

EXTENSION OF IMPORT RESTRICTIONS IMPOSED ON ARCHAEOLOGICAL MATERIAL FROM MALI

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: In T.D. 97-80, the Customs Regulations were amended to reflect the imposition of import restrictions on certain archaeological material from Mali. These restrictions were imposed pursuant to an agreement between the United States and Mali (the Agreement) that was entered into under the authority of the Convention on Cultural Property Implementation Act in accordance with the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. Recently, the United States Department of State determined that conditions continue to warrant the imposition of these import restrictions for a period not to exceed five years. The Governments of the United States and Mali exchanged diplomatic notes agreeing to extend the Agreement. Thus, this document amends the Customs Regulations to reflect that the import restrictions currently in place continue, without interruption, for five years from September 19, 2002. T.D. 97-80 contains the Designated List of Archaeological Material from the Region of the Niger River Valley, Mali, and the Bandiagara Escarpment (Cliff), Mali, that describes the articles to which the restrictions and this extension of restrictions apply.

EFFECTIVE DATE: This regulation and the extension of import restrictions reflected in this regulation become effective on September 19, 2002.

FOR FURTHER INFORMATION CONTACT: (Regulatory Aspects) Joseph Howard, Intellectual Property Rights Branch (202) 572-8701; (Operational Aspects) Al Morawski, Trade Operations (202) 927-0402.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Pursuant to the provisions of the 1970 UNESCO Convention, codified into U. S. law as the Convention on Cultural Property Implementation Act (Pub. L. 97-446, 19 U.S.C. 2601 *et seq*) (the Act), the United States entered into a bilateral agreement with Mali on September 19, 1997 (Agreement Between the United States of America and the Government of the Republic of Mali Concerning the Imposition of Import Restrictions on Archaeological Material from the Region of the Niger River Valley and the Bandiagara Escarpment (Cliff)) (the Agreement), concerning the imposition of import restrictions on certain archaeological material from Mali. The U.S. Customs Service issued T.D. 97-80 (62 FR 49594, September 23, 1997) amending § 12.104g(a) of the Customs Regulations (19 CFR 12.104g(a)) to reflect the imposition of these restrictions for a period not to exceed five years. The restrictions became effective on September 23, 1997.

Prior to the issuance of T.D. 97-80, Customs issued T.D. 93-74 (58 FR 49428, September 23, 1993) that imposed emergency import restrictions on certain archaeological material from the region of the Niger River Valley in Mali and the Bandiagara Escarpment (Cliff) in Mali forming part of the remains of the ancient sub-Sahara culture. Under T.D. 93-74, § 12.104g(b) (19 CFR 12.104g(b)) of the regulations pertaining to emergency restrictions was amended accordingly. Subsequently, the same archaeological material covered by T.D. 93-74 was covered in T.D. 97-80 when it was published in 1997, at which time the emergency restrictions of T.D. 93-74 were removed from § 12.104g(b).

On August 19, 2002, the Assistant Secretary of Educational and Cultural Affairs, Department of State, concluded, among other things, that the cultural patrimony of Mali continues to be in jeopardy from pillage of irreplaceable materials representing its heritage and made the necessary determinations under 19 U.S.C. 2602(e) and 2602(a) to extend the import restrictions for a period not to exceed five years (in the Determination to Extend the Agreement). The Government of the United States and the Government of the Republic of Mali exchanged diplomatic notes on September 17, 2002, agreeing to extend the Agreement effective September 19, 2002. Accordingly, Customs is amending § 12.104g(a) to reflect the extension of the import restrictions.

The Designated List of Archaeological Material from the Region of the Niger River Valley, Mali, and the Bandiagara Escarpment (Cliff), Mali, describing the materials covered by these import restrictions is set forth in T.D. 97-80. The list and accompanying image database may also be found at the following internet website address: <http://exchanges.state.gov/culprop>.

The restrictions on the importation of these archaeological materials from Mali are to continue in effect for five years from September 19, 2002. Importation of these materials continues to be restricted unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

INAPPLICABILITY OF NOTICE AND DELAYED EFFECTIVE DATE

Because the amendment to the Customs Regulations contained in this document extends import restrictions already imposed on the above-listed cultural property of Mali by the terms of a bilateral agreement entered into in furtherance of a foreign affairs function of the United States, pursuant to the Administrative Procedure Act (5 U.S.C. 553(a)(1)), no notice of proposed rulemaking or public procedure is necessary and a delayed effective date is not required.

REGULATORY FLEXIBILITY ACT

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. Accordingly, this final rule is not subject to the regulatory analysis or other requirements of 5 U.S.C 603 and 604.

EXECUTIVE ORDER 12866

This amendment does not meet the criteria of a “significant regulatory action” as described in E.O. 12866.

DRAFTING INFORMATION

The principal author of this document was Bill Conrad, Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service.

LIST OF SUBJECTS IN 19 CFR PART 12

Customs duties and inspections, Imports, Cultural property.

AMENDMENT TO THE REGULATIONS

Accordingly, Part 12 of the Customs Regulations (19 CFR Part 12) is Amended, as set forth below:

PART 12—[AMENDED]

1. The general authority and specific authority citations for Part 12, in part, continue to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Note 23, Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

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Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

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2. In § 12.104g(a), the list of agreements imposing import restrictions on described articles of cultural property of State Parties is amended in the entry for Mali by adding “extended by T.D. 02–55” immediately after “T.D. 97–80” in the column headed “T.D. No.”.

ROBERT C. BONNER,
Commissioner of Customs.

Approved: September 18, 2002.

TIMOTHY E. SKUD,
Deputy Assistant Secretary of the Treasury.

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